

IC 36-2-13

Chapter 13. County Sheriff

IC 36-2-13-1

Application of chapter

Sec. 1. Except for sections 15.3 and 16.3 of this chapter, this chapter applies to all counties.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.1-2002, SEC.156.

IC 36-2-13-2

Residence; term of office

Sec. 2. (a) The county sheriff must reside within the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The sheriff forfeits office if the sheriff ceases to be a resident of the county.

(b) The term of office of the county sheriff under Article 6, Section 2 of the Constitution of the State of Indiana is four (4) years and continues until a successor is elected and qualified.

As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.3-1987, SEC.548.

IC 36-2-13-2.5

Salary contracts for sheriffs; required provisions

Sec. 2.5. (a) The sheriff, the executive, and the fiscal body may enter into a salary contract for the sheriff.

(b) A sheriff's salary contract must contain the following provisions:

(1) A fixed amount of compensation for the sheriff in place of fee compensation.

(2) Payment of the full amount of the sheriff's compensation from the county general fund in the manner that salaries of other county officials are paid.

(3) Deposit by the sheriff of the sheriff's tax warrant collection fees (as described in IC 6-8.1-8-3) in the county general fund for use for any general fund purpose.

(4) A procedure for financing prisoners' meals that uses one (1) of the following methods:

(A) The county fiscal body shall make an appropriation in the usual manner from the county general fund to the sheriff for feeding prisoners. The sheriff or the sheriff's officers, deputies, or employees may not make a profit from the appropriation. The sheriff shall deposit all meal allowances received under IC 36-8-10-7 in the county general fund for use for any general fund purpose.

(B) The sheriff shall pay for feeding prisoners from meal allowances received under IC 36-8-10-7. The sheriff or the sheriff's officers, deputies, or employees may not make a profit from the meal allowances. After the expenses of feeding prisoners are paid, the sheriff shall deposit any

unspent meal allowance money in the county general fund for use for any general fund purpose.

(5) A requirement that the sheriff shall file an accounting of expenditures for feeding prisoners with the county auditor on the first Monday of January and the first Monday of July of each year.

(6) An expiration date that is not later than the date that the term of the sheriff expires.

(7) Other provisions concerning the sheriff's compensation to which the sheriff, the county executive, and the fiscal body agree.

(c) A salary contract is entered under this section when a written document containing the provisions of the contract is:

(1) approved by resolution of both the executive and the fiscal body; and

(2) signed by the sheriff.

As added by P.L.83-1993, SEC.2.

IC 36-2-13-2.8

Payment of compensation from county general fund

Sec. 2.8. (a) In place of any other form of compensation, including a salary contract entered into under section 2.5 of this chapter, a county may pay a sheriff's compensation as provided in this section from the county general fund in the manner that salaries of other county officials are paid. However, the sheriff may retain the sheriff's tax warrant collection fees (as described in IC 6-8.1-8-3).

(b) If a county pays a sheriff's compensation under this section, the county fiscal body shall make an appropriation in the usual manner from the county general fund for feeding prisoners. The sheriff or the sheriff's officers, deputies, or employees may not make a profit from the appropriation.

(c) A county that pays a sheriff's compensation under this section shall pay the sheriff as follows:

(1) In a county having a population of not more than twenty thousand (20,000), the county must pay the sheriff an annual salary that is equal to at least fifty percent (50%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

(2) In a county having a population of:

(A) more than twenty thousand (20,000); and

(B) not more than forty thousand (40,000);

the county must pay the sheriff an annual salary that is equal to at least sixty percent (60%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

(3) In a county having a population of:

(A) more than forty thousand (40,000); and

(B) not more than sixty-five thousand five hundred (65,500);

the county must pay the sheriff an annual salary that is equal to at least seventy percent (70%) of the annual minimum salary

that would be paid by the state to a full-time prosecuting attorney in the county.

(4) In a county having a population of:

(A) more than sixty-five thousand five hundred (65,500);
and

(B) not more than one hundred thousand (100,000);

the county must pay the sheriff an annual salary that is equal to at least eighty percent (80%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

(5) In a county having a population of:

(A) more than one hundred thousand (100,000); and

(B) not more than two hundred thousand (200,000);

the county must pay the sheriff an annual salary that is equal to at least ninety percent (90%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

(6) In a county having a population of more than two hundred thousand, the county must pay the sheriff an annual salary that is equal to at least one hundred percent (100%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county.

As added by P.L.230-1996, SEC.1.

IC 36-2-13-3

Meetings of county executive; attendance

Sec. 3. The sheriff shall attend meetings of the county executive when required under IC 36-2-2-15(d).

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-13-4

Meetings of county fiscal body; attendance

Sec. 4. The sheriff shall attend meetings of the county fiscal body when required under IC 36-2-3-6(c).

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-13-5

Duties

Sec. 5. (a) The sheriff shall:

(1) arrest without process persons who commit an offense within the sheriff's view, take them before a court of the county having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;

(2) suppress breaches of the peace, calling the power of the county to the sheriff's aid if necessary;

(3) pursue and jail felons;

(4) execute all process directed to the sheriff by legal authority;

(5) serve all process directed to the sheriff from a court or the county executive;

(6) attend and preserve order in all courts of the county;

- (7) take care of the county jail and the prisoners there;
- (8) take photographs, fingerprints, and other identification data as the sheriff shall prescribe of persons taken into custody for felonies or misdemeanors; and
- (9) on or before January 31 and June 30 of each year, provide to the department of correction the average daily cost of incarcerating a prisoner in the county jail as determined under the methodology developed by the department of correction under IC 11-10-13.

(b) A person who:

- (1) refuses to be photographed;
- (2) refuses to be fingerprinted;
- (3) withholds information; or
- (4) gives false information;

as prescribed in subsection (a)(8), commits a Class C misdemeanor.
As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.344-1983, SEC.1; P.L.85-2004, SEC.12.

IC 36-2-13-5.5

Sheriff's sex offender web site; requirements; funding

Sec. 5.5. (a) The sheriffs shall jointly establish and maintain a sex offender web site, known as the Indiana sheriffs' sex offender registry, to inform the general public about the identity, location, and appearance of every sex offender residing within Indiana. The web site must provide information regarding each sex offender, organized by county of residence. The web site shall be updated at least every seven (7) days.

(b) The sex offender web site must include the following information:

- (1) A recent photograph of every sex offender who has registered with a sheriff after the effective date of this chapter.
- (2) The home address of every sex offender.
- (3) The information required to be included in the sex offender directory (IC 5-2-12-6).

(c) Every time a sex offender submits a new registration form to the sheriff, but at least once per year, the sheriff shall photograph the sex offender. The sheriff shall place this photograph on the sex offender web site.

(d) The photograph of a sex offender described in subsection (c) must meet the following requirements:

- (1) The photograph must be full face, front view, with a plain white or off-white background.
- (2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.
- (3) The photograph must be in color.
- (4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.
- (5) If the offender normally and consistently wears prescription

glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.

(6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the sex offender web site.

(e) The sex offender web site may be funded from:

- (1) the jail commissary fund (IC 36-8-10-21);
- (2) a grant from the criminal justice institute; and
- (3) any other source, subject to the approval of the county fiscal body.

As added by P.L.116-2002, SEC.27. Amended by P.L.154-2003, SEC.2.

IC 36-2-13-6

Purchase of judgment or allowance prohibited

Sec. 6. The sheriff may not purchase a judgment or allowance in a court of which he is an officer.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-13-7 Repealed

(Repealed by P.L.144-1983, SEC.2.)

IC 36-2-13-8

Repealed

(Repealed by P.L.217-1986, SEC.1.)

IC 36-2-13-9

Training school; attendance; expenses

Sec. 9. (a) After his election and before he assumes the duties of his office, the sheriff-elect may attend the sessions of a training school that:

- (1) offers courses of instruction for sheriffs;
- (2) is established by Indiana University, Purdue University, Indiana University and Purdue University, the state police department, or the Indiana sheriffs' association; and
- (3) teaches methods of crime detection and offers courses from the state board of accounts on office routine and accounting.

(b) On presentation of proper charges or receipts and with the approval of the county executive, the county auditor may issue his warrant for the following expenses of the sheriff-elect in attending a school under this section:

- (1) Any tuition charged by the school.
- (2) A sum for mileage, lodging, and meals, equal to the sum allowed county officers under IC 5-11-14-1.

As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1980, P.L.125, SEC.23; P.L.144-1983, SEC.3.

IC 36-2-13-10

Motor vehicles; equipment; maintenance

Sec. 10. (a) The county shall furnish one (1) automobile and, with the approval of the county executive and the county fiscal body, may furnish additional automobiles, for use by the sheriff in the performance of his official duties. The county shall maintain each automobile in service.

(b) The county executive may purchase for and furnish to the sheriff a motor vehicle that seats a driver, two (2) guards, and at least six (6) other persons, and may be equipped for use as an ambulance or used to transport persons in the custody of the sheriff. The county shall maintain the vehicle.

(c) If the county furnishes and maintains a conveyance for the use of the sheriff, it may not grant him a mileage allowance but may reimburse him for other expenses relating to the conveyance.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-13-11

Repealed

(Repealed by Acts 1981, P.L.309, SEC.115(b).)

IC 36-2-13-12

Reports; persons confined in county jail; condition of county jail; recommendations

Sec. 12. (a) The sheriff shall file with the appropriate court and, in the case of a person awaiting trial on a criminal charge, with the county prosecuting attorney, a weekly report of each person confined in the county jail. The report must include the confined person's name, the date of commitment, the court or officer ordering the commitment, the criminal charge, conviction, or civil action underlying the commitment, the term of commitment, and whether the person is awaiting trial or serving a term of imprisonment.

(b) The sheriff shall file with the county executive an annual report of the condition of the county jail and any recommended improvements in its maintenance and operation. The report shall also be filed with the county auditor and maintained as a public record.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-13-13

Protection of prisoner in sheriff's custody; assistance; unlawful killing of prisoner; forfeiture of office; reinstatement

Sec. 13. (a) Whenever the sheriff has reason to believe that a prisoner in his custody is in danger of being unlawfully killed, he shall order all persons with whom he can directly communicate to assist him in protecting the prisoner. If the sheriff remains unable to protect the prisoner, he shall notify the governor and ask for the aid of the state in protecting the prisoner.

(b) A sheriff who unlawfully kills a prisoner in his custody, or unlawfully permits such a prisoner to be killed, forfeits his office. The governor shall issue a proclamation declaring the office of the

sheriff vacated.

(c) The person who forfeited the office may petition the governor to be reinstated as sheriff. The petition must:

- (1) show that the person did everything in his power to protect the life of the prisoner and carried out the duties of his office pertaining to the protection of prisoners; and
- (2) be filed with the governor not more than fourteen (14) days after the date on which the governor declares the office of the sheriff vacated.

If, after a hearing, the governor finds that the person did carry out the duties of his office, he may reinstate him in office and issue to him a certificate of reinstatement. A person who files a petition under this subsection shall give notice to both the prosecuting attorney of the county and the attorney general.

As added by Acts 1980, P.L.212, SEC.1.

IC 36-2-13-14

Health care services supplied persons under lawful detention; payment under insurance of detainee; failure or refusal of detainee to file claim

Sec. 14. (a) As used in this section, "accident and sickness insurance policy" means an insurance policy that provides one (1) or more of the types of insurance described as Class 1(b) or 2(a) insurance under IC 27-1-5-1 on an individual basis or a group basis.

(b) As used in this section, "enrollee" has the meaning set forth in IC 27-13-1-12.

(c) As used in this section, "lawful detention" has the meaning set forth in IC 35-41-1-18.

(d) As used in this section, "health maintenance organization" has the meaning set forth in IC 27-13-1-19.

(e) An individual who is:

- (1) insured under an accident and sickness insurance policy; or
- (2) an enrollee under a health maintenance organization;

shall submit a claim under the policy or plan for expenses resulting from health care services that are rendered to the individual while the individual is subject to lawful detention by a county sheriff.

(f) A county sheriff is not obligated to pay for health care services rendered to an individual while in the lawful detention of the sheriff to the extent that payment for the services is available under:

- (1) an accident and sickness insurance policy under which the individual is insured; or
- (2) a health maintenance organization under which the individual is an enrollee.

(g) If an individual to whom health care services are rendered while subject to lawful detention by a county sheriff fails or refuses to file a claim for payment of expenses resulting from the health care services, a claim for payment of the expenses may be filed by:

- (1) the sheriff; or
 - (2) the health care provider that rendered the services;
- on behalf of the individual with the accident and sickness insurance

policy under which the individual is insured or the health maintenance organization under which the individual is an enrollee. *As added by P.L.219-1991, SEC.1. Amended by P.L.26-1994, SEC.27.*

IC 36-2-13-15

Prisoners reimbursing counties for costs of incarceration

Sec. 15. (a) As used in this section, "lawful detention" has the meaning set forth in IC 35-41-1-18.

(b) This section applies to a county only if the legislative body for the county elects by ordinance to implement this section.

(c) A person who is:

- (1) sentenced under this article for a felony or a misdemeanor;
- (2) subject to lawful detention in a county jail for a period of more than seventy-two (72) hours;
- (3) not a member of a family that makes less than 150% of the federal income poverty level; and
- (4) not detained as a child subject to the jurisdiction of a juvenile court;

shall reimburse the county for the costs described in subsection (d).

(d) A person described in subsection (c) shall reimburse the county for the sum of the following amounts:

(1) The lesser of:

- (A) the per diem amount specified under subsection (e); or
- (B) thirty dollars (\$30);

multiplied by each day or part of a day that the person is lawfully detained in a county jail or lawfully detained under IC 35-33-11-3 for more than six (6) hours.

(2) The direct cost of investigating whether the person is indigent.

(3) The cost of collecting the amount for which the person is liable under this section.

(e) The county fiscal body shall fix the per diem described in subsection (d)(1)(A) in an amount that is reasonably related to the average daily cost of housing a person in the county jail. If the county transfers the person to another county or the department of correction under IC 35-33-11-3, the per diem is equal to the per diem charged to the county under IC 35-33-11-5.

(f) The county sheriff shall collect the amounts due from a person under this section in conformity with the procedures specified in the ordinance adopted under subsection (b). If the county sheriff does not collect the amount due to the county, the county attorney may collect the amount due.

As added by P.L.123-1998, SEC.2.

IC 36-2-13-15.3

Prisoners reimbursing counties for costs of incarceration; Ohio County

Sec. 15.3. (a) As used in this section, "lawful detention" has the meaning set forth in IC 35-41-1-18.

(b) This section applies only:

- (1) to a county having a population of less than six thousand (6,000); and
- (2) if the legislative body for the county elects by ordinance to implement this section.

(c) A person who is:

- (1) sentenced under this article for a felony or a misdemeanor;
- (2) subject to lawful detention in a county jail for a period of more than six (6) hours;
- (3) not a member of a family that makes less than 150% of the federal income poverty level; and
- (4) not detained as a child subject to the jurisdiction of a juvenile court;

shall reimburse the county for the costs described in subsection (d).

(d) A person described in subsection (c) shall reimburse the county for the sum of the following amounts:

(1) The lesser of:

- (A) the per diem amount specified under subsection (e); or
- (B) fifty dollars (\$50);

multiplied by each day or part of a day that the person is lawfully detained in a county jail or lawfully detained under IC 35-33-11-3 for more than six (6) hours.

(2) The direct cost of investigating whether the person is indigent.

(3) The cost of collecting the amount for which the person is liable under this section.

(e) The county fiscal body shall fix the per diem described in subsection (d)(1)(A) in an amount that is reasonably related to the average daily cost of housing a person in the county jail. If the county transfers the person to another county or the department of correction under IC 35-33-11-3, the per diem is equal to the per diem charged to the county under IC 35-33-11-5.

(f) The county sheriff shall collect the amounts due from a person under this section in conformity with the procedures specified in the ordinance adopted under subsection (b). If the county sheriff does not collect the amount due to the county, the county attorney may collect the amount due.

As added by P.L.170-2001, SEC.1.

IC 36-2-13-16

Nonreverting county prisoner reimbursement funds

Sec. 16. (a) If the county legislative body adopts an ordinance electing to implement section 15 of this chapter, the county legislative body shall establish a nonreverting county prisoner reimbursement fund.

(b) All amounts collected under section 15 of this chapter must be deposited in the county prisoner reimbursement fund.

(c) Any amount earned from the investment of amounts in the fund becomes part of the fund.

(d) Notwithstanding any other law, upon appropriation by the

county fiscal body, amounts in the fund may be used by the county only for the operation, construction, repair, remodeling, enlarging, and equipment of:

- (1) a county jail; or
- (2) a juvenile detention center to be operated under IC 31-31-8 or IC 31-31-9.

As added by P.L.123-1998, SEC.3.

IC 36-2-13-16.3

Nonreverting county prisoner reimbursement funds; Ohio County

Sec. 16.3. (a) If the county legislative body adopts an ordinance electing to implement section 15.3 of this chapter, the county legislative body shall establish a nonreverting county prisoner reimbursement fund.

(b) All amounts collected under section 15.3 of this chapter must be deposited in the county prisoner reimbursement fund.

(c) Any amount earned from the investment of amounts in the fund becomes part of the fund.

(d) Notwithstanding any other law, upon appropriation by the county fiscal body, amounts in the fund may be used by the county only for:

- (1) operating, constructing, repairing, remodeling, enlarging, and equipping:
 - (A) a county jail; or
 - (B) a juvenile detention center to be operated under IC 31-31-8 or IC 31-31-9; or
- (2) the costs of care, maintenance, and housing of prisoners, including the cost of housing prisoners in the facilities of another county.

As added by P.L.170-2001, SEC.2.